

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

FRANCOIS ABESSOLO,

Plaintiff,

v.

SARA SMITH, et al.,

Defendants.

Case No. 1:11-cv-680

Spiegel, J.  
Bowman, M.J.

**ORDER**

By separate Report and Recommendation filed this day, the undersigned has recommended dismissal of the entirety of Plaintiff's complaint. In addition to seeking dismissal of the complaint, Defendants Daniel and Sams filed a motion to strike one of Plaintiff's responsive memoranda, on grounds that it is an improper sur-reply filed after Plaintiff had filed a response to Defendants' motion to dismiss. Plaintiff may well have intended the memorandum as a sur-reply. However, the Court notes that the memorandum in question was not docketed as a sur-reply to the reply of Defendants Daniel and Sams, but instead as a response in opposition to the County Defendants' separately filed motion to dismiss. A nearly identical (third) response was filed by Plaintiff a week later. (Doc. 24).

In light of the procedural ambiguity of the nature of Plaintiff's memorandum in opposition, and in further consideration of his *pro se* status, **IT IS ORDERED THAT** Defendants' motion to strike (Doc. 23) be **DENIED**.

s/ Stephanie K. Bowman  
Stephanie K. Bowman  
United States Magistrate Judge